



COMMUNITY DEVELOPMENT DEPARTMENT

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Website Address: www.morgan-hill.ca.gov

PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

APRIL 8, 2008

PRESENT: Acevedo, Koepp-Baker, Davenport, Escobar, Lyle, Mueller, Tanda

ABSENT: None

LATE: None

STAFF: Community Development Director (CDD) Molloy Previsich, Planning Manager (PM) Rowe, Senior Civil Engineer (SCE) Creer, and Minutes Clerk Johnson

Also present: Consultant to the Planning Department, David Bischoff

Chair Escobar called the meeting to order at 7:00 p.m., inviting all present to join in pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Escobar opened the public hearing.

Chair Escobar joined the seated Commissioners in welcoming Commissioner Lyle, who had been appointed by the City Council to fill a vacancy on the Planning Commission.

SCE Creer was present to distribute the Capital Improvements Program (CIP) information for the upcoming fiscal year. He noted that the Commissioners had requested the data be handed out prior to the meeting when discussion would be scheduled.

With no others present indicating a wish to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

MARCH 11, 2008 **COMMISSIONERS MUELLER/KOEPP-BAKER MOTIONED TO APPROVE THE MARCH 11, 2008 MINUTES AS PRESENTED. THE MOTION**

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CARRIED (6-0-1-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: LYLE; ABSENT: NONE.

MARCH 18, 2008 COMMISSIONERS MUELLER/KOEPP-BAKER MOTIONED TO APPROVE THE MARCH 18, 2008 MINUTES, WITH THE FOLLOWING MODIFICATION: Page 9, last word of page (delete): ~~,-CITYWIDE~~

THE MOTION CARRIED (5-0-2-0) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: ACEVEDO, LYLE; ABSENT: NONE.

MARCH 25, 2008 COMMISSIONERS MUELLER/KOEPP-BAKER MOTIONED TO APPROVE THE MARCH 25, 2008 MINUTES, WITH THE FOLLOWING MODIFICATION: Page 8, paragraph 5:

Commissioners Acevedo ~~and Mueller, both of whom~~ had been on the General Plan review committee..... volunteers, completed the study,” *Commissioner Acevedo said.* Commissioner Mueller was identified as having been a part of that study ~~as well.~~

THE MOTION CARRIED (6-0-1-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: LYLE; ABSENT: NONE.

PUBLIC HEARING:

**1) VAR-07-01:
LONE HILL-
SOUTH
VALLEY
DEVELOPERS**

A request for a variance to the minimum lot size in conjunction with a proposed tentative parcel map for an approximately 1.93-acre site zoned R2-3,500 RPD. The site is located adjacent to the northern terminus of Lone Hill Dr.

PM Rowe gave the staff report, including an overview of the request and the discussion at the February 12, 2008 Planning Commission meeting. PM Rowe explained that the request had come to the Commissioners because of the need to determine whether or not the findings could be made to approve a variance to the minimum lot size of a proposed administrative subdivision. He noted:

- the need for such a variance was infrequent, not generally recurring
- the RPD Ordinance had the objective of creating a 7,000 sf lot adjacent to the existing development, buffering the future multi-family dwellings to the north
- the slope easement established years ago was the reason for lack of achievement of the objective
- slope easements do not serve a practical purpose (topography issues) for enhancing use of the site (meeting minimum size)
- discussion of redesign of the cul-de-sac
- location of future extension of Santa Teresa which will result in potential impacts to the project.

Concluding the staff report, PM Rowe noting the inclusion of the Initial Study, the Negative Declaration and the Mitigation Monitoring Plan.

Commissioner Tanda said he had thought the request to exclude slope easement was because it did not function as a slope. He also explained that – based on the notes he had

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taken previously – that lot four 7,244 sf and contains a public utility easement which, if subtracted, would cause that lot to be less than 7,000 sf and requested staff to check the validity of the measurements.

Commissioner Mueller clarified that the net area on lot four is defined as excluding the street dedication, and then reducing the amount of the gross by 15% of the net value. “In this case, it does appear that the amount is in excess of 15%, although not by much,” Commissioner Mueller said.

Commissioner Lyle commented that the R-1:7,000 allows a 25% variation so the minimum of 5,252 sf should be ‘ok’. Commissioner Mueller agreed the concept to be correct, but cautioned that the minimum lot size must be precisely stated in the Resolution.

Dialogue continued with the Commissioners and staff clarifying:

- lot 1 and lot 4 include storm drain easements (in terms of variance, easements put both lots below the 7,000 sf minimum
- need to include storm drain in variance
- if only slope easements, the lots would be non-conforming
- the applicant is proposing to have drainage (for lot 4) to the street at the front and also to the back of the property

SCE Creer was asked for comment and said: “With respect to the public service easement, that could be reduced at the front. The public service easement is set for utilities, with almost all public utilities except PG&E being placed under the sidewalk which could cause re-measurement and reduction of the easement.”

Chair Escobar opened the public hearing.

Scott Schilling, 16060 Caputo Place, #160, was present to speak to the Commissioners, and said he agreed with ‘most of the staff report as presented’. Mr. Schilling explained that:

- (1) not counting the public easement (predominately for PG&E), that easement of 10 feet and also the storm drain easement at the back could be reduced
- (2) the public utility easement at the front and the storm drain easement in the back total about 17%; further reduction could be made
- (3) the key to making the situation work is to adjust those easements (item 2 above) but the minimum cannot be met with the 10-ft slope easement in place
- (4) the net lot area meets the minimum required for the R-1:7,000

Mr. Schilling went on to explain that lot 4 is ‘almost identical to the situation on lot 1’ but has not been identified in the Resolution. “We also asking that the slope and public utility easements be adjusted, because at 17% we could again narrow the public utility easement; therefore, we request that the public utility easement not count against us, as well.”

With no others present to address the matter, the public hearing was closed.

Commissioner Mueller said, “Given what we have heard, I think we have to make the requested modification.”

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COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING A VARIANCE TO THE MINIMUM LOT SIZE (7,000 SF ²) FOR LOTS 1 AND 4 OF A PROPOSED TENTATIVE PARCEL MAP CONTAINED IN APPLICATION ASD-06-01 LONE HILL-SOUTH VALLEY DEVELOPERS, WITH THE FOLLOWING MODIFICATION:

SECTION 2, NUMBER 3: THE STORM DRAIN AND PUBLIC UTILITY EASEMENTS SHALL BE REDUCED TO BE LESS THAN 15% OF THE NET AREA OF THE LOTS (1 & 4).

COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, NOTING THE INCLUSION OF THE FINDINGS AND CONDITIONS WITHIN THE PREPARED RESOLUTION.

Commissioner Acevedo asked, "As a procedure/policy matter, the original Ordinance was set for a minimum lot size. Can the Planning Commission grant a variance which permits the applicant to 'get around the Ordinance' or should we be working to have the Ordinance changed?" PM Rowe said staff had researched the matter and the original intent of the Ordinance was to ensure the R-1:7,000 standards were applied. However, he said, the Municipal Code Chapter says the variance is subject to Planning commission findings noting that the 7000 sq ft lot standard would have been met if not for the slope easements. PM Rowe also noted that the RPD Ordinance for the project site, when it was adopted, did not anticipate such difficulty as were now being presented due to the slope easements.

Commissioner Mueller commented that the Ordinance for RPDs is a zoning Ordinance which places a specific set of rules on this property. "There was not anticipation that a non-vacation of easement might ever need to occur. Originally the matter was just not thought through," Commissioner Mueller said.

Discussion continued as to the need to have the Ordinance changed with City Council action, or have the matter decided by the Planning Commission. Chair Escobar noted that the variance rests with the ordinance and not vice versa.

It was determined that Planning Department staff will work to recalculate for corrections to the net lot area to lots 1 and 4 (relative to the motion on the floor). Considerable discussion ensued regarding calculations relating to the easements.

PM Rowe noted that Standards had been adopted with respect to the public utility: the need to be able to get those utilities underground; if the area is not being used, those easements could be reduce in some cases, while in other areas, there may be need for the entire amount of easement size. PM Rowe said staff could look at those standards.

Commissioner Acevedo observed that the Commissioners had heard testimony at the previous meeting that there would probably be need for the neighbors to the south to ask for reduction of slope easement, as well as this request for this property.

THE MOTION CARRIED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

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COMMISSIONERS MUELLER/ KOEPP-BAKER MOTIONED TO APPROVE AND ACCEPT THE NEGATIVE DECLARATION AND THE MITIGATION MONITORING PLAN. THE MOTION CARRIED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

**2) DAA-06-03B/
DSA-07-09B:
JARVIS-SOUTH
COUNTY
HOUSING**

A request to amend the project development agreement and development schedule for 95 units in the Madrone Plaza project to allow for a six-month extension of time. The project site is approximately 6.5 acres in size and is located at the northwest corner of Butterfield Blvd. and Jarvis Dr. in an R3 (PUD) Zoning District.

PM Rowe presented the staff report, noting this request is similar to others asking for an extension of time, not due to the fault of the applicant, which have been received and approved within recent months. PM Rowe points out changes to revised Resolutions for both the Development Schedule and the Development Agreement.

Commissioner Davenport commented, "The Commission has been seeing more and more of these requests, and we have been trying to help out. I'm just somewhat surprised by this one as this is such a large number of units." PM Rowe responded that this project has more affordable housing units and the developer feels that once he can have a sales office opened in the development, it will free up construction funding for the remaining units.

Commissioner Mueller reminded that the extension request is for six months with the 10 units all under construction. "The funding for all but 10 units for the current year under construction will then open up the ability for the developer to obtain further funding," Commissioner Mueller said.

Commissioner Davenport determined that the six months requested was 'ok'.

Chair Escobar opened, and then closed, the public hearing as there were none present indicating a wish to speak to the matter.

COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MC-05-02: JARVIS – SOUTH COUNTY HOUSING TO ALLOW A SIX MONTH EXTENSION OF TIME. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (7-0) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS CONTAINED THEREIN, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-06-0CB: JARVIS – SOUTH COUNTY HOUSING TO ALLOW A 6-MONTH EXTENSION OF TIME TO COMMENCE CONSTRUCTION ON 54, FY 2007-08 AND 41, FY 2008-09 BUILDING ALLOTMENTS. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (7-0) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE;

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ABSTAIN: NONE; ABSENT: NONE.

**3) ZA 06-16:
CITY OF M. H.-
PUD/RPD,
PARKING AND
DESIGN
REVIEW
ORDINANCE
AMENDMENTS
AND
ARCHITECTURAL
DESIGN
HANDBOOK**

Consideration of modifications proposed to the Planned Unit Development, PUD Chapter 18.30 and repeal of Chapter 18.18 Residential Planned Development, RPD zoning. Modifications are also proposed to Chapter 2.56 Architectural Review Board, Chapter 18.50 Parking and Paving Standards and 18.74 Design Review. A revised Architectural Design Handbook will also be considered.

PM Rowe provided the staff report, recalling for the Commissioners that on February 21, 2008, a workshop was held with the Planning commission, Architectural Review Board and local design professionals to review and comment on the draft Design Handbook and proposed zoning text modifications. PM Rowe advised that staff is still in the process of incorporating all the suggestions regarding the matter to date. "Our goal is to present a final draft handbook and zoning text for the Commission's consideration. We do need additional time and therefore are recommending continuation of this item to the April 22 Commission meeting," PM Rowe said.

Chair Escobar opened, and then closed, the public hearing, having ascertained there were no members of the audience wishing to address the matter.

COMMISSIONERS MUELLER/ KOEPP-BAKER MOTIONED TO CONTINUE THE MATTER OF ZA-06-16: CITY OF M. H.-PUD/RPD, PARKING AND DESIGN REVIEW ORDINANCE AMENDMENTS AND ARCHITECTURAL DESIGN HANDBOOK TO THE APRIL 22, 2008 PLANNING COMMISSION MEETING. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

**4) BI-ANNUAL
VACANCY
SURVEY**

Bi-annual review of vacancy survey results as required in accordance to the Morgan Hill Municipal Code, Chapter 17.36.

PM Rowe presented the staff report and called attention that the current rate of vacancies for all rental units is 2.2% in the City. Commissioners engaged in dialogue with staff, noting:

- a more comprehensive survey had been requested
- Commissioners had asked for a larger sampling

PM Rowe advised the sampling is 60% of all rentals and that percentage had been increased from previous samplings. It was noted that the agendaed item should have been listed as *semiannual*, not bi-annual report.

Chair Escobar opened, and then closed, the public hearing, as there were no members of the audience indicating a wish to speak to the matter.

COMMISSIONERS MUELLER/ KOEPP-BAKER MOTIONED TO ACCEPT THE BI-ANNUAL VACANCY SURVEY, AND FORWARD SAID SURVEY TO THE

**CITY COUNCIL. THE MOTION PASSED (7-0) BY THE FOLLOWING VOTE:
AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA;
NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

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5) SANTA CLARA VALLEY HABITAT CONSERVATION PLAN (HCP/NCCP): REVIEW AND COMMENT ON SEVEN KEY POLICY AREAS

Request for the Planning Commission to provide comments for City Council consideration on Draft Key Policy Areas related to the forthcoming Santa Clara Valley Habitat Plan.

CDD Molloy Previsich presented the staff report, advising the Commissioners that while this is the first time this information has been presented to the Planning Commissioners, much work has been done within the County's inter-jurisdictional team. CDD Molloy Previsich introduced Ken Schreiber, Program Manager for the Santa Clara Valley Habitat Conservation Plan (HCP). Consultant Schreiber described his presentation as a method of familiarizing the Commissioners with HCP and introduction to seven key policy areas. Consultant Schreiber said he planned to present the Morgan Hill City Council with the same information at its next meeting.

Explaining his work with the six County jurisdictions during the multi year project, Consultant Schreiber presented the program as developed to date. "This program represents the large scale planning effort to address habitat concerns within the realm of both state and federal laws allowing adoption of local policy for habitat plans," he said. Consultant Schreiber went on to explain the value of having the HCP in place so that consistency of information was available to the public, and effectively removed layers of federal and state regulations.

Consultant Schreiber provided an overview of the program, including those entities within the County who are participating. "The goal is to have the policy go Countywide and this is the first phase," Consultant Schreiber said. He noted that Morgan Hill and Gilroy became involved in the process in 2005. Consultant Schreiber said the study areas were generally based on watershed areas. The bay land has not been included because of complex species issues. Other programs are addressing the bay lands so this program does not need to and had that been done, it would have added another level of complexity," Consultant Schreiber said. He listed the benefits of the program as:

- study of open space
- recreational areas
- sensitive areas
- enhanced local control
- streamlining permit processes
- work completed within the content of existing General Plans

Commissioners asked questions regarding:

- purposes of HCP
- development within Urban Limit Line [ULL] (would be included; modification of General Plan possible, but if ULL unchanged, no issue with HCP)
- in Morgan Hill, HCP looks at lands suitable for development within next 50 years

CDD Molloy Previsich explained that in areas such as the Southeast Quadrant (SEQ), the Sphere of Influence (SOI) is assumed to be the area for planning.

- HCP focuses on land to be consumed in the future
- need for looking at benefits: public infrastructure e.g., when looking to work on bridge, may run into endangered species
- provides regional awareness of emergency work before onset
- regional approach to studying lands and focusing on more valuable habitat lands

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- 50 year permit term long enough out to address life of most capital projects
- science-based approach to land management
- way land acquisition comes together
- addresses streams lot of work on stream
- HCP is looking at how much conservation effects are targeted to specific areas, e.g., stream fish migration
- program costs anticipated to range between \$7 million - \$ 1.2 billion
- funding sources: private/public; maintenance of effort funding; non-profits, state and federal funding services
 - impact fees based on value (biologically valued)

Consultant Schreiber then described the three fee zones for the HCP.

- A Natural lands
- B agricultural or former ag land which has been significantly disturbed
- C urban/suburban vacant lands areas

“Everyone will pay a fee for land being developed,” Consultant Schreiber said. He noted that Zone B covers a large portion of Morgan Hill and would likely be \$10,000 per acre. But it is important to remember: What is being bought is an insurance policy that says, ‘When the Habitat Conservation Plan is accepted, there will not be uncertainty due to future discovery of future endangered species’; and from standpoint of development community that is invaluable,” Consultant Schreiber said.

Discussion evolved regarding:

- fee structure, including potential conflicts [described by Consultant Schreiber as being at the ‘top of the list’]
- ‘disturbed lands’
- distinction of urban and suburban lands
- types of development involved and fees processed
- concerns of revocation and potential for changes and amendment of HCP)
- federal funding being built into plan

Commissioner Koepp-Baker clarified the need for conditions of approval if some existing species becomes endangered ten years from now.

Consultant Schreiber enumerated for the Commissioners those elected Officials and liaison groups who have made the recommendations, together with five options presented. “Now, our next steps will be to conclude the review (May 2008) and have an EIR prepared for presentation in early 2009, followed by implantation of the HCP in 2010,” Consultant Schreiber said.

As to the permit term (50 years), Chair Escobar observed that 50 years certainly appears to cover the life span of any CIP anticipated, but that it also says 30 years is not long enough; why then, not 75 – 100 years? Consultant Schreiber responded that State/Federal guidelines do not approve 100 years, as there might be a cloud with dealing with uncertainly for monitoring. “The review is scheduled for monitoring every five years and 50 years is about as far out as regulatory agencies would consider. The land acquisition has been moved up to 40 to 45 years. Chair Escobar clarified that the 50 years is a fixed term, not a rolling term to be renewed every five years or so.

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Commissioner Tanda asked what happens at the end of the 50 years. Consultant Schreiber said the land must be kept in habitat in perpetuity with it being maintained in public ownership, and have conservation restriction on it. Commissioner Tanda continued by clarifying that at the end of 50 years, there would not be a change, but the property owner would have to maintain the HCP or 'redo' the permit.

Commissioner Koepp-Baker asked about maintenance and oversight funding. Consultant Schreiber said those items must be part of the budget. Discussion followed regarding formulating of the budget.

Commissioner Mueller questioned the fact that while there seems to be a mechanism for maintenance of identified species, what would happen if a species became troubled? "Could the HCP oversight program or other agencies put the brakes on? Actually, another question is: what if a species really starts thriving? It seems the continued impact on that species by development would be reduced," Commissioner Mueller said. Consultant Schreiber stated, "The amount of land conservation efforts can be scaled back." Commissioner Mueller continued by noting that the HCP is not clear in that area, i.e., success of the HCP ought to be able to reduce efforts in the field. Consultant Schreiber agreed, and said the matter should be called out in the HCP.

Commissioner Tanda requested examples of where the absence of the HCP has caused development delays in Morgan Hill. CDD Molloy Previsich gave examples, including Kruse Subdivision. Consultant Schreiber said areas are taken into consideration rather than a case by case basis with the result to be more cost effective and more streamlined in the permit process. Consultant Schreiber called attention to a Table within the Power Point presentation in which there was identifying species potential in Morgan Hill per the HCP modeling. CDD Molloy Previsich spoke on the existing Morgan Hill Burrowing Owl Mitigation Plan and in-lieu fees which will shift over to the HCP and HCP fees once the HCP is finalized. Consultant Schreiber noted that the Resource Agencies want a comprehensive approach for preservation and conservation of habitat.

Chair Escobar raised the following issues:

- other areas than Morgan Hill have more prevalent issues with developer activity resulting in more impact fees
- the distribution of allocation of funding
- questions of what is the plan for participating agencies if those agencies can't continue

Consultant Schreiber said there are tasks relating to public land and private land care.

CDD Molloy Previsich as result of HCP, the permit process should be streamlined with new CEQA reviews of species on an individual basis. Consultant Schreiber commented that developers have need for certainly and with this program that certainly is provided.

Commissioner Tanda noted that in some instances there are examples in the HCP where the Federal Government gets involved, but in Morgan Hill there seems to be very few instances, with the primary responsibility for the HCP resting with the City which is already occurring. CDD Molloy Previsich again called attention to the burrowing owl issue within the City, and noting that this matter has received much attention. Consultant Schreiber said the burrowing owl is not an issue in other areas, but the red legged frog and

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tiger salamander are, and consequently, the property owners must obtain permit

Commissioners asked CDD Molloy Previsich and Consultant Schreiber to continue examination of:

- clarification about PL 566 (believed to be within the SCVWD list of projects)
- excluded activities, such as timber harvest (why left out of permit)
- Coyote Valley Specific Plan
- Discussion of ag exclusion; (Consultant Schreiber said ag is excluded from Fish/Wildlife so ag was excluded from the HCP)
- habitat lands, including row crop/flatland where ag is considered 'gone'
- as far as hillsides, generally, the property owners know how to manage pasture land

In relation to Coyote Valley, all partners signed an exclusion in 2005 of Coyote Valley, thinking then the Coyote Valley Specific Plan would be completed before the HCP, but that proved not to be the case. He also said that he believed the land area within the CVSP would most likely be designated as Urban Reserve with the Specific Plan land being folded into the HCP.

Other issues discussed included:

- Highway construction in 152/156 corridor
- potential for having schools be excluded from the HCP
- 'incidental taking' for a broader plan of protection
- San Martin area / greenbelt concerns
- steelhead entrance into Llagas creek from the Pajaro river
- whether ag easements would be considered part of implementing fees (potential for fee credits)
- HCP can be 'insurance' and spread fee effect
- City needs to look at multiple fee system closely
- Vineyards (considerable discussion ensued; there may be need to revisit vineyards with Wildlife agency personnel)
- Dairies
- Williamson Act provides basis for "two separate tracks: the Williamson Act lands are excluded from the HCP, but the HCP does not curtail the Williamson Act property responsibilities; with the Williamson Act, lands inside the ULL are still affected

The need for clarifications to the HCP was noted:

- budget
- zones being more clearly defined; how split between A – B – C
- having Coyote Valley included
- elucidation of 'supportive of ag' and
- administration of specific policies

Chair Escobar opened the public hearing.

Alex Kennett said he was the elected representative to the Santa Clara County Open Space Authority and said that organization wants to participate with the HCP. "Since the HCP is still a work in progress, we are asking: at what level can we participate? I believe we can help," he said. Mr. Kennett went on to speak to the issues of funding, maintenance

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of a web site, and the potential for relationships with other Open Space groups, such as the Silicon Valley Land Conservancy. “We would like to emphasize land purchases with willing seller/willing buyers and the properties kept as indicated.

With no others present indicating a wish to speak to the matter, Chair Escobar closed the public hearing and thanked Consultant Schreiber for his participation.

There was general consensus of Planning Commissioners to support the following recommendations, found on the noted pages of the Summary Document included with the staff report:

1. Permit Term (page 1): Support for recommended 50-year permit term.
2. Covered Activities (page 3): Support for recommendations regarding broad categories of covered and excluded activities, except that Coyote Valley should now be included.
3. Preferred Land and Stream Conservation Strategy (page 5): Support for conservation strategy consistent with the key concepts identified in the summary.
4. Habitat Plan Related Project Review Process & Conditions of Approval (page 7): Support for the process principles and general outline of conditions as identified in the summary. Ensure the HCP process and conditions do actually provide streamlining benefits, and substitutes for current city burrowing owl fee program.
5. Habitat Plan Costs (page 9): Support for the outline of costs as identified in the summary.
6. Habitat Plan Funding (page 11): Generally supportive of the funding approach, but affordable housing at 75% of project should be exempted, Zone C “four sides” criteria needs refinement, and clarity about acceptable types of “offsets” should be provided (e.g. agricultural mitigation fees?).
7. Implementing Entity (page 16): Support for the Implementation Entity to be a Joint Powers Authority (JPA) that includes elected officials from each Partner Agency that adopts the HCP and receives an Incidental Take Permit; or a combination of a JPA and an implementing organization operating within the oversight of the JPA.

6) SOUTHEAST QUADRANT AND AGRICUL- TURAL MITIGATION POLICIES RECOMMEN- DATION TO CITY COUNCIL

*(Continued from
March 25, 2008)*

Chair Escobar explained the intent of this discussion:

- staff would provide an overview of the issue
- a public hearing would be available for those not speaking at the last meeting
- if items remained to be discussed, the matter would be continued to the next Commission meeting April 22 2008

Commissioner Mueller said he could see value in devoting most of the next meeting to this matter and asked about the possible time allotment for discussion. Chair Escobar noted the Commissioners have received an advance document for the CIP (to be heard April 22) and expressed a hope that the CIP could be dispatched quickly as he thought the Commissioners should address some issues previously raised before formulating a recommendation.

Consultant Bischoff provided information requested at the previous meeting:

- some municipalities are known to have ag mitigation programs (at least a dozen

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- in northern CA
- the Home Builders Association says that the cost of permits and fees in Morgan Hill are among the highest in the County
- CEQA says agency mitigation must be socially, technologically, economically and legally feasible

CDD Molloy Previsich explained that the SEQ Recreation Sports Leisure Amendment for the General Plan would be a new designation and overlay a new implementing zoning area of about 170 acres focused at the Tennant Avenue/Hwy 101 interchange.

Chair Escobar opened the public hearing.

Rich Chiala, 2880 Tennant Ave., spoke to the Commissioners, referencing a distributed letter and map. Mr. Chiala said he would like to respond to the Urban Limit Line and staff recommendation that his property be excluded and designated as green belt. “We would like our property to be included in the Urban Limit Line, which we think could present advantages to preserve the ag and, benefit the environment and the City as a whole. Mr. Chiala went on to tell the Commissioners that the income from the ag lands does not support the property; but the family would like to maintain the historic Kellog Estate. “We want to work with the City to create a top-notch project. We would like the opportunity to develop a Master Plan that will benefit the entire community.” Mr. Chiala explained.

George Guglielmo, 1480 Emuir, reported to the Commissioners that at this time he did not support the plans for the SEQ as he had not been apprised of the ‘main issues’.

With no others present to speak to the matter, the public hearing was closed.

Commissioner Lyle asked if staff had met with affected property owners. Consultant Bischoff said meetings had occurred with some of the major landowners. Commissioner Lyle urged meetings be held with others, if possible.

CDD Molloy Previsich advised it will be important to identify specific areas where easements would be acceptable, but not required. “In the SEQ some properties will be expressly identified as ag,” she said. Commissioner Mueller remarked it will be important to know if the Chiala property will be viable for ag in that area, adding that for Ag at that location may not be the best way to achieve our goal.”

CDD Molloy Previsich reminded that members of community have said that if the City is to have an ag mitigation program, monies should be spent within the Morgan Hill SOI. “We will certainly look at the viability of continuing ag in the SOI,” CDD Molloy Previsich indicated. “We can still look at Gilroy as a conservation area if ag is not viable in the SOI.”

Commissioner Mueller asked about CEQA requirements to establish an ag mitigation program. Consultant Bischoff explained what levels of mitigation could be considered feasible. Commissioner Mueller led discussion as to the ‘next step’ in looking at the SEQ for establishment of the Urban Limit Line and how to do a Master Plan. “Ag mitigation must be put into place as the City is being pushed to adopt a more formal program,” Commissioner Mueller said.

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CDD Molloy Previsich noted that in an ag mitigation program, the City could identify within the SOI and Urban Limit Line where ag could be viable.

Commissioner Mueller asked if there must be one emphasis or if two or more alternatives could be evaluated in the EIR? CDD Molloy Previsich answered that alternatives could be considered.

Commissioner Tanda remarked that "It seems that if we are to keep ag land in Morgan Hill, we would end up with something like Prusch Farm Park in San Jose. I'm inclined to think it would be better to concentrate on open space between Morgan Hill and Gilroy.

CDD Molloy Previsich indicated that certification of an EIR will be necessary should it be found that full ag mitigation is not feasible. She went on to explain that there is some confusion between ag land and open space preservation buffers. "One reason why the Recreation Sports Leisure Amendment would be attractive is that it would take advantage of the freeways while emphasizing open space with some level of urban service availability."

Discussion ensued regarding the possible incorporation of San Martin, with the SOI up to Maple and the SOI and City limit being coterminous.

Commissioner Tanda observed that there must be willing sellers for ag land preservation and if not, the City must have a Plan B. "What are the options for Morgan Hill: to have non-urbanized areas on the borders with substantial buffers between or find other ways to put boundaries between the nearby cities so they can't be jumped over?" Commissioner Tanda asked.

Commissioner Mueller suggested the City may want to include all of the SEQ with the Urban Limit Line, prepare a Master Plan for the whole area, including a greenbelt. He said he hoped the South County Joint Planning effort would be adopted by San Martin, should it incorporate. Also, if development is allowed down Tennant, we may need to study the Tennant streetscape. Since I think the Chiala Family wants to be within the Urban Limit Line, we probably shouldn't take that option away - even though it is not an easy option, he said.

Due to the lateness of the hour, Chair Escobar declared that the discussion for this evening on the SEQ was at end.

Discussion ensued regarding the time to begin the next meeting and agendized items for that meeting.

Noting that there are many interested people in the topic of the SEQ, **COMMISSIONERS**

MUELLER/KOEPP-BAKER MOTIONED TO CONTINUE THE MATTER OF THE CITY'S SEQ TO THE COMMISSION MEETING OF APRIL 22, 2008. THE MOTION PASSED (7-0) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Recalling that item 3 (City Of M. H. - PUD/RPD, Parking and Design Review Ordinance

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Amendments and Architectural Design Handbook) had been continued to the April 22, 2008 meeting in order to provide staff with additional work time to prepare the needed materials, Chair Escobar recalled the item to the floor.

ON A FRIENDLY REPLACEMENT MOTION BY COMMISSIONERS MUELLER/DAVENPORT, THE MATTER OF CITY OF M. H. - PUD/RPD, PARKING AND DESIGN REVIEW ORDINANCE AMENDMENTS AND ARCHITECTURAL DESIGN HANDBOOK WAS CONTINUED TO THE FIRST MEETING OF MAY 2008 (13TH). THE MOTION CARRIED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

7) PLANNING COMMISSION WORKPLAN FOR FISCAL YEAR 2008-2009

The City Council has requested that each Commission prepare a workplan for FY 2008-09. The Planning Division must also prepare a workplan, which is submitted to the City Manager's Office, reviewed by the City Council, and reflected in the budget that is adopted.

CDD Molloy Previsich presented the workplan for the new fiscal year, noting it was a combination of the Planning Commission and Planning Department items.

Commissioner Davenport asked, "What are the ramifications if the work as proposed does not get done?" CDD Molloy Previsich explained it is indeed a *workplan* and is used as a blueprint to keep work projects forward and active. Chair Escobar said much of what is done mirrors much of the work of the City Council.

Chair Escobar called attention to the asterisked items as being areas for Commission input.

Commissioner Mueller led discussion of the facets of the Housing Element update. CDD Molloy Previsich said the regional housing needs have already been determined by ABAG and seem do-able.

Commissioner Acevedo asked about the timing of the next comprehensive General Plan update. CDD Molloy Previsich explained that staff is completing work on some land use and circulation elements amendments now and work is also being done for the HCP and Greenbelt study, as well as the Housing Element. She said she thought that work on a new General Plan would probably begin in 2011 or 2012. Commissioner Mueller said the advantage of waiting until either of those years would be that the City would have the 2010 census results, and the General Plan could be completed by 2014." If we did it any sooner we would be using old, outdated census data with questionable value," Commissioner Mueller said.

Other issues discussed were:

- because of the potential for much of the workplan being targeted for completion for 6-30-09 and the possibility of Commission member turnover 6-01-09, it might be well to set the Planning Commission completion dates for 5-30-09
- RDCS needs addition of competition in Spring/Fall 2009
- Downtown Specific Plan presents the potential for changing of R-3 and R-4
- need to examine density for the way the State looks at provision of affordable housing units; could be studied concurrently with the Housing Element

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Commissioner Davenport led discussion of 'green building' (which was not asterisked) and asked about AB 32 (Carbon Footprint Patterns) being mandates. CDD Molloy Previsich said the City intends to look at the issue as well as potential modifications this fiscal year to RDCS [Subcommittee will start working on building green as far as it relates to the RDCS point system]. The larger, broader issue of green building is a FY 08/09 workplan item.

Commissioner Mueller said that he had learned from information gleaned from Sacramento that the Home Builder's Association has been working on a new International Building Code for 2010, with much emphasis on 'green', including a checklist being placed into the Building Code.

BY CONSENSUS OF ALL COMMISSIONERS PRESENT – NONE WERE ABSENT – THE PLANNING COMMISSION WORKPLAN FOR FISCAL YEAR 2008-2009 WAS DIRECTED TO BE SENT TO THE MAYOR AND CITY COUNCILMEMBERS.

INFORMATION:

8) PLANNERS INSTITUTE DEBRIEF

Commissioners report on the recently attended League of California Cities Planners Institute held in Sacramento.

Commissioners Koepp-Baker, Davenport and Mueller reported attending sessions on:

- changes in CEQA (effective 2010)
- energy
- water
- 'almost everyone' residual land value methodologyland value goes up by a proportion of the density increase
- mixed-use is dependent on office and retail markets; can help or hinder overall value
- presentations on downtown {Redwood City has had progress made; Morgan Hill could learn from their experiences with much repeatable history in the area}
- Commissioner Davenport said, "We were presented with many examples of form based codes as 'best practice' for downtown revitalization projects."

ANNOUNCEMENTS: CDD Molloy Previsich reported on the Council's directions regarding the project description for the Downtown Specific Plan. The Planning Commission's recommendations were ratified, with only one change: affordable housing will not be required downtown. The Council also appeared to favor a ballot measure and will discuss alternative approaches by July 2008.

ADJOURNMENT: There being no further business, Chair Escobar declared the meeting adjourned at 10:52 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk

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